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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

BELIVEAU, SCOTT E

ART UNIT

PAPER NUMBER

2623

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/840,948

Applicant(s)

WILLIAMS, JOSEPH F.

Examiner

Scott Beliveau

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-72 is/are pending in the application.
- 4a) Of the above claim(s) 20-72 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 April 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/24/01</u> . | 6) <input type="checkbox"/> Other: _____  |

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## **DETAILED ACTION**

### ***Miscellaneous***

1. Please note that the examination art unit for this application has changed from Art Unit 2614 to 2623.

### ***Election/Restrictions***

2. Claims 20-72 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 03 March 2006.

### ***Drawings***

3. The drawings are objected to because the label of element "22" should read "Expected Time-Channel = Alternate Time-Channel" consistent with its description within the specification (Page 16, Lines 1-2). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each

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drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Specification*

4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The following title is suggested: "System and method for determining the expected time-channel for a television series".

### *Claim Rejections - 35 USC § 101*

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1-19 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter and the claimed invention lacks patentable utility.

With respect to claims 1 and 12 (and their respective dependent claims), the claims entails a method or computer code for determining and storing an expected time-channel for a television series relative to a reference week whereupon the responsive to a determination the expected time-channel is set to a particular value. As described in the specification, applicant's invention appears to be directed toward at least a method for informing consumers of changes in times and channels at which episodes of a television series are aired

on television each week (Page 7, Lines 10-12). Claim 1 and particularly claim 12 appears to be directed towards an abstract idea or algorithm for performing a calculation which is not a practical application that produces a useful, concrete, and tangible result. As aforementioned, applicant's invention is described as informing consumers of changes in times and channels at which episodes of a television series are aired on television each week. This is considered a practical application. However, applicant's claimed invention appears to simply be a subset of that process or an algorithm which in itself does not result in the disclosed useful or tangible result associated with informing the consumer as to changes in times and channels at which episodes of a television series are aired on television each week. Furthermore, claim 12 is considered merely as functional descriptive material which in itself is not considered statutory since it is not structurally and functionally interrelated to some sort of computer-readable medium so as to realize its functionality.

### ***Claim Objections***

6. Claim 12 is objected to because of an extraneous ":" subsequent to the term "access" in line 3. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an

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international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-4 and 12-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Sullivan (US Pat No. 6,549,929).

In consideration of claim 1, Sullivan discloses an “ETCRA method of determining and storing an expected time-channel for a television series relative to a reference week” so as to both inform and ensure that the scheduling changes associated with series events do not cause the user to be reminded of the wrong programming event (Col 2, Line 34 – Col 3, Line 11). The method involves “identifying in the reference week a reference time-channel on which the TV series is scheduled to be aired or has actually aired” [501/502], “specifying at least one condition” such as whether or not the same program deemed reoccurring and is not being aired during the same time slot during a subsequent week, “determining whether the at least one condition has been satisfied” [504/550], and “if the determining whether the at least one condition has not been satisfied, then making the expected time-channel equal to the reference time-channel” [510], “else making the expected time channel equal to an alternate time-channel” [551] associated with the rescheduling of the program (Figures 4A/B; Col 9, Line 63 – Col 12, Line 51; Col 13, Lines 16-39)

Claim 2 is rejected wherein the “alternate time-channel is an overriding time-channel for the TV series relative to the reference week, and wherein the at least one condition comprises specifying the overriding time-channel”. For example, the particular rescheduled time-channel is construed as an “overriding time-channel” given that the event typically is associated with a given time-channel and the condition specifies the overriding time-channel

in association with its comparison to determine whether or not the channel has changed from its regular time-channel slot.

Claim 3 is rejected wherein the “determining includes utilizing program time-channel data relating to programs of the TV series, wherein the program time-channel data is stored in an Airings Database Structure” utilized to render the displayed program listings (Col 1, Lines 18-45; Col 3, Lines 13-21; Col 12, Lines 50-61).

Claim 4 is rejected wherein the method further comprises “storing an identification of the expected time-channel in a Series Scheduling Expectation (SEE) database Structure” in order to provide the user with a reminder according to the expected airing of the program (Col 9, Lines 10-20).

Claim 12 is rejected wherein Sullivan discloses “computer code” (Col 13, Lines 40-52) that “outputs an expected time-channel for a television series relative to a reference week” so notify users that scheduling associated with series of interest has changed (Col 2, Line 34 – Col 3, Line 11). The “algorithm” is programmed to “access identification of the TV series, identification of a reference week and identification of a reference time-channel on which the TV series is scheduled to be aired during the reference week or has actually aired during the reference week” [501/502], “access a specification of at least one condition” such as whether or not the same program deemed reoccurring and is not being aired during the same time slot during a subsequent week and “determine whether the at least one condition has been satisfied” [504/550]. Subsequently, the algorithm “makes the expected time-channel equal to the reference time-channel if the algorithm has determined that the at least one condition has not been satisfied” [510] and “makes the expected time channel equal to an alternate time-

channel” [551] associated with the rescheduling of the program “if the algorithm has determined that the at least one condition has been satisfied” (Figures 4A/B; Col 9, Line 63 – Col 12, Line 51; Col 13, Lines 16-39).

Claim 13 is rejected wherein the “alternative time-channel is an overriding time-channel for the TV series relative to the reference week, wherein the at least one condition comprise inputting the overriding time-channel to the algorithm, wherein the algorithm is further programmed to: receive as input the overriding time-channel; and set the alternate time-channel equal to the overriding time-channel if the algorithm has received the overriding time-channel as input”. For example, the particular rescheduled time-channel is construed as an “overriding time-channel” given that the event typically is associated with a given time-channel and the condition specifies the overriding time-channel in association with its comparison to determine whether or not the channel has changed from its regular time-channel slot.

Claim 14 is rejected wherein the “algorithm is programmed to determine whether the at least one condition has been satisfied by utilizing time-channel data stored in an Airings Database Structure, wherein the program time-channel data relates to programs of the TV series” (Col 1, Lines 18-45; Col 3, Lines 13-21; Col 12, Lines 50-61)

Claim 15 is rejected wherein the “algorithm is further programmed to store an identification of the expected time-channel in a Series Scheduling Expectation (SSE) Database Structure” in order to provide the user with a reminder according to the expected airing of the program (Col 9, Lines 10-20).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as follows. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objections made.

- The Ellis et al. (US Pub No. 2002/0054068 A1) reference discloses a system and method for reducing cut-offs in program recordings by using a historic analysis to predict the actual program start time.
- The Sullivan (US Pat No. 6,591,421 B1) reference discloses a system and method for predicting whether or not events are reoccurring.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Beliveau whose telephone number is 571-272-7343. The examiner can normally be reached on Monday-Friday from 8:30 a.m. - 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Scott Beliveau  
Examiner  
Art Unit 2623



SEB

April 5, 2006